

104TH CONGRESS
1ST SESSION

H. R. 1308

To withdraw and reserve certain public lands in the State of California utilized in the mission of the Naval Air Facility, El Centro, California.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 1995

Mr. HUNTER introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To withdraw and reserve certain public lands in the State of California utilized in the mission of the Naval Air Facility, El Centro, California.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the “El
5 Centro Naval Air Facility Ranges Withdrawal Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Findings and definitions.

- Sec. 3. Withdrawal and reservation of lands for El Centro.
- Sec. 4. Maps and legal descriptions.
- Sec. 5. Management of withdrawn lands.
- Sec. 6. Duration of withdrawal and reservation; process for extension.
- Sec. 7. Ongoing decontamination.
- Sec. 8. Early relinquishment of withdrawal.
- Sec. 9. Delegation.
- Sec. 10. Hunting, fishing, and trapping.
- Sec. 11. Immunity of United States.
- Sec. 12. Termination of prior reclamation withdrawals.
- Sec. 13. Authorization of appropriations.

1 **SEC. 2. FINDINGS AND DEFINITIONS.**

2 (a) FINDINGS.—The Congress finds that—

3 (1) the Federal lands within the desert areas of
 4 California have provided essential opportunities for
 5 military training, research, and development for the
 6 Armed Forces of the United States and allied na-
 7 tions;

8 (2) alternative sites for military training and
 9 other military activities carried out on Federal lands
 10 in the California desert area are not readily avail-
 11 able;

12 (3) while changing world conditions have less-
 13 ened to some extent the immediacy of military
 14 threats to the national security of the United States
 15 and its allies, there remains a need for military
 16 training, research, and development activities of the
 17 types that have been carried out on Federal lands in
 18 the California desert area; and

19 (4) continuation of existing military training,
 20 research, and development activities, under appro-

(1) The term “El Centro” means the Naval Air Facility, El Centro, California.

(3) The term “relinquishment notice” means a notice of intention by the Secretary of the Navy under section 8(a) to relinquish, before the termination date specified in section 6(a), the withdrawal and reservation of certain lands withdrawn under this Act.

(a) WITHDRAWALS.—Subject to valid existing rights, and except as otherwise provided in this Act, the Federal lands utilized in the mission of the Naval Air Facility, El

1 El Centro, California, that are described in subsection (c) are
2 hereby withdrawn from all forms of appropriation under
3 the public land laws (including the mining laws) but not
4 the mineral or geothermal leasing laws or the mineral ma-
5 terials sales laws.

6 (b) RESERVATION.—The lands withdrawn under sub-
7 section (a) are reserved for use by the Secretary of the
8 Navy—

9 (1) for defense-related purposes in accordance
10 with the Memorandum of Understanding dated June
11 29, 1987, between the Bureau of Land Manage-
12 ment, the Bureau of Reclamation, and the Depart-
13 ment of the Navy; and

14 (2) subject to the provisions of section 5(e), for
15 other defense-related purposes consistent with the
16 purposes specified in such memorandum.

17 (c) DESCRIPTION OF WITHDRAWN LANDS.—The
18 lands referred to in subsection (a) are—

19 (1) the Federal lands comprising approximately
20 46,600 acres in Imperial County, California, as gen-
21 erally depicted on a map entitled “Exhibit A, Naval
22 Air Facility, El Centro, California, Land Acquisition
23 Map, Range 2510 (West Mesa)” and dated March
24 1993 and a map entitled “Exhibit B, Naval Air Fa-
25 cility, El Centro, California, Land Acquisition Map

1 Range 2512 (East Mesa)” and dated March 1993;
2 and

3 (2) and all other areas within the boundaries
4 depicted on such maps that may become subject to
5 the operation of the public land laws.

6 **SEC. 4. MAPS AND LEGAL DESCRIPTIONS.**

7 (a) PUBLICATION AND FILING REQUIREMENTS.—As
8 soon as practicable after the date of the enactment of this
9 Act, the Secretary of the Interior shall—

10 (1) publish in the Federal Register a notice
11 containing the legal description of the lands with-
12 drawn and reserved under this Act; and

13 (2) file maps and the legal description of the
14 lands withdrawn and reserved under this Act with
15 the Committee on Energy and Natural Resources of
16 the Senate and with the Committee on Resources of
17 the House of Representatives.

18 (b) LEGAL EFFECT.—The maps and legal descrip-
19 tions prepared under subsection (a) shall have the same
20 force and effect as if they were included in this Act, except
21 that the Secretary of the Interior may correct clerical and
22 typographical errors in such maps and legal descriptions.

23 (c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies
24 of the maps and legal descriptions prepared under sub-
25 section (a) shall be available for public inspection in—

1 (1) the Office of the Director of the Bureau of
2 Land Management, Washington, District of Colum-
3 bia;

4 (2) the Office of the State Director, California
5 State Office of the Bureau of Land Management,
6 Sacramento, California;

7 (3) the Office of the District Manager, Califor-
8 nia Desert District of the Bureau of Land Manage-
9 ment, Riverside, California;

10 (4) the Office of the Commanding Officer, Ma-
11 rine Corps Air Station, Yuma, Arizona;

12 (5) and the Office of the Commending Officer,
13 El Centro.

14 (d) REIMBURSEMENT.—The Secretary of Navy shall
15 reimburse the Secretary of the Interior for the cost of im-
16 plementing this section.

17 **SEC. 5. MANAGEMENT OF WITHDRAWN LANDS.**

18 (a) MANAGEMENT BY THE SECRETARY OF THE INTE-
19 RIOR.—During the period of the withdrawal, the Secretary
20 of the Interior shall manage the lands withdrawn under
21 this Act pursuant to the Federal Land Policy and Man-
22 agement Act of 1976 (43 U.S.C. 1701 et seq.) and other
23 applicable law, including this Act. The Secretary of the
24 Interior shall manage such lands in consultation with the
25 Secretary of the Navy.

1 (b) PERMITTED MANAGEMENT ACTIVITIES.—To the
2 extent consistent with applicable law and Executive orders
3 and the cooperative agreement, the lands withdrawn under
4 this Act may be managed in a manner permitting—

5 (1) protection of wildlife and wildlife habitat;

6 (2) control of predatory and other animals;

7 (3) the prevention and appropriate suppression
8 of brush and range fires resulting from nonmilitary
9 activities; and

10 (4) geothermal leasing and development and re-
11 lated power production, mineral leasing and develop-
12 ment, and mineral material sales.

13 (c) CONDITIONS ON NONMILITARY USES.—

14 (1) CONDITIONS AND RESTRICTIONS.—All non-
15 military use of the lands withdrawn under this Act,
16 including the uses described in subsection (b), shall
17 be subject to such conditions and restrictions as may
18 be necessary to permit the military use of such lands
19 for the purposes specified in or authorized pursuant
20 to this Act.

21 (2) CONCURRENCE OF NAVY.—The Secretary of
22 the Interior may issue a lease, easement, right-of-
23 way, or other authorization with respect to the non-
24 military use of such lands only with the concurrence

1 of the Secretary of the Navy and under the terms
2 of the cooperative agreement.

3 (d) CLOSURE TO PUBLIC.—If the Secretary of the
4 Navy determines that military operations, public safety,
5 or national security require the closure to public use of
6 any road, trail, or other portion of the lands withdrawn
7 under this Act, the Secretary may take such action as the
8 Secretary determines necessary or desirable to effect and
9 maintain such closure. Any such closure shall be limited
10 to the minimum areas and periods which the Secretary
11 of the Navy determines are required to carry out this sub-
12 section. Before and during any closure under this sub-
13 section, the Secretary of the Navy shall keep appropriate
14 warning notices posted and take appropriate steps to no-
15 tify the public concerning such closures.

16 (e) ADDITIONAL MILITARY USES.—Lands withdrawn
17 under this Act may be used for defense-related uses other
18 than those specified in the memorandum of understanding
19 referred to in section 3(b)(1). The Secretary of the Navy
20 shall promptly notify the Secretary of the Interior in the
21 event that the lands withdrawn under this Act will be used
22 for additional defense-related purposes. Such notification
23 shall indicate the additional use or uses involved, the pro-
24 posed duration of such uses, and the extent to which such
25 additional military uses of the withdrawn lands will re-

1 quire that additional or more stringent conditions or re-
2 strictions be imposed on otherwise-permitted nonmilitary
3 uses of all or any portion of the withdrawn land.

4 (f) COOPERATIVE AGREEMENT.—To the extent con-
5 sistent with this Act, the lands withdrawn under this Act,
6 and minerals within such lands, shall be managed in ac-
7 cordance with the cooperative agreement. As soon as prac-
8 ticable after the enactment of this Act, the parties to the
9 cooperative agreement shall revise and amend the coopera-
10 tive agreement as necessary to implement the provisions
11 of this Act. The term of the cooperative agreement shall
12 be amended so that its duration is at least equal to the
13 duration of the withdrawal made by section 6(a). The co-
14 operative agreement may be reviewed and amended by the
15 managing agencies as necessary.

16 **SEC. 6. DURATION OF WITHDRAWAL AND RESERVATION;**
17 **PROCESS FOR EXTENSION.**

18 (a) TERMINATION DATE.—The withdrawal and res-
19 ervation established under this Act shall terminate 25
20 years after the date of the enactment of this Act.

21 (b) DETERMINATION OF CONTINUING MILITARY
22 NEED.—At least three years before the termination date
23 specified in subsection (a), the Secretary of the Navy shall
24 advise the Secretary of the Interior as to whether or not
25 the Secretary of the Navy will have a continuing military

1 need for any of the lands withdrawn under this Act after
2 the termination date.

3 (c) PROCESS FOR EXTENSION OF WITHDRAWAL AND
4 RESERVATION.—

5 (1) APPLICATION FOR EXTENSION.—If the Sec-
6 retary of the Navy concludes under subsection (b)
7 that there will be a continuing military need for any
8 of the lands withdrawn under this Act after the ter-
9 mination date, the Secretary shall file an application
10 for extension of the withdrawal and reservation of
11 such needed lands in accordance with the regulations
12 and procedures of the Department of the Interior
13 applicable to the extension of withdrawals of lands
14 for military uses.

15 (2) ENVIRONMENTAL IMPACT STATEMENT.—In
16 connection with the application under paragraph (1),
17 the Secretary of the Navy shall publish an environ-
18 mental impact statement concerning continued or re-
19 newed withdrawal of any portion of the lands with-
20 drawn under this Act for which that Secretary in-
21 tends to seek such continued or renewed withdrawal.
22 Such environmental impact statement shall be con-
23 sistent with the requirements of the National Envi-
24 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
25 seq.). Prior to the termination date specified in sub-

1 section (a), the Secretary of the Navy shall hold a
2 public hearing on any draft environmental impact
3 statement published pursuant to this subsection.
4 Such hearing shall be held in the State of California
5 in order to receive public comments on the alter-
6 natives and other matters included in such draft en-
7 vironmental impact statement.

8 (3) EXTENSIONS OR RENEWALS BY LAW.—Not-
9 withstanding paragraph (1), the withdrawal and res-
10 ervation made under this Act may not be extended
11 or renewed except by a law enacted by Congress
12 after the date of the enactment of this Act.

13 **SEC. 7. ONGOING DECONTAMINATION.**

14 (a) PROGRAM.—Throughout the duration of the with-
15 drawal and reservation made under this Act, the Secretary
16 of the Navy, to the extent funds are made available, shall
17 maintain a program of decontamination of the lands with-
18 drawn under this Act at least at the level of decontamina-
19 tion activities performed on such lands in fiscal year 1986.

20 (b) REPORTS.—At the same time as the President
21 transmits to the Congress the President's proposed budget
22 for the first fiscal year beginning after the date of the
23 enactment of this Act and for each subsequent fiscal year,
24 the Secretary of the Navy shall transmit to the Commit-
25 tees on Appropriations, Armed Services, and Energy and

1 Natural Resources of the Senate and to the Committees
2 on Appropriations, National Security, and Resources of
3 the House of Representatives a description of the decon-
4 tamination efforts undertaken during the previous fiscal
5 year on such lands and the decontamination activities pro-
6 posed for such lands during the next fiscal year, includ-
7 ing—

8 (1) the amounts appropriated and obligated or
9 expended for decontamination of such lands;

10 (2) the methods used to decontaminate such
11 lands;

12 (3) amount and types of contaminants removed
13 from such lands;

14 (4) estimated types and amounts of residual
15 contamination on such lands;

16 (5) an estimate of the costs for full decon-
17 tamination of such lands; and

18 (6) an estimate of the time required to complete
19 such decontamination.

20 **SEC. 8. EARLY RELINQUISHMENT OF WITHDRAWAL.**

21 (a) FILING OF RELINQUISHMENT NOTICE.—If, dur-
22 ing the period of withdrawal and reservation specified in
23 section 6(a), the Secretary of the Navy decides to relin-
24 quish all or any portion of the lands withdrawn and re-
25 served under this Act, the Secretary of the Navy shall file

1 a notice of intention to relinquish with the Secretary of
2 the Interior.

3 (b) DETERMINATION OF PRESENCE OF CONTAMINA-
4 TION.—Before transmitting a relinquishment notice, the
5 Secretary of the Navy shall prepare a written determina-
6 tion concerning whether and to what extent the lands that
7 are to be relinquished are contaminated with explosive,
8 toxic, or other hazardous materials. A copy of such deter-
9 mination shall be transmitted with the relinquishment no-
10 tice. The Secretary of the Interior shall publish in the Fed-
11 eral Register copies of both the relinquishment notice and
12 the determination concerning the contaminated state of
13 the lands.

14 (c) DECONTAMINATION.—In the case of contami-
15 nated lands which are the subject of a relinquishment no-
16 tice, the Secretary of the Navy shall decontaminate the
17 land to the extent that funds are appropriated for such
18 purpose if the Secretary of the Interior, in consultation
19 with the Secretary of the Navy, determines that—

- 20 (1) decontamination of the lands is practicable
21 and economically feasible, taking into consideration
22 the potential future use and value of the land; and
23 (2) upon decontamination, the land could be
24 opened to the operation of some or all of the public
25 land laws, including the mining laws.

1 (d) EFFECT ON OTHER LAWS.—Nothing in this Act
2 shall affect, or be construed to affect, the obligations of
3 the Secretary of the Navy, if any, to decontaminate lands
4 withdrawn under this Act pursuant to applicable law, in-
5 cluding the Comprehensive Environmental Response Com-
6 pensation and Liability Act of 1980 (42 U.S.C. 9601 et
7 seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901
8 et seq.).

9 (e) AUTHORITY OF SECRETARY OF THE INTERIOR TO
10 REFUSE CONTAMINATED LANDS.—The Secretary of the
11 Interior shall not be required to accept lands specified in
12 a relinquishment notice if the Secretary of the Interior,
13 after consultation with the Secretary of the Navy, con-
14 cludes that—

15 (1) decontamination of any land which is the
16 subject of the relinquishment notice is not prac-
17 ticable or economically feasible;

18 (2) the land cannot be decontaminated suffi-
19 ciently to be opened to operation of some or all of
20 the public land laws; or

21 (3) a sufficient amount of funds are not appro-
22 priated for the decontamination of the land.

23 (f) STATUS OF CONTAMINATED LANDS.—If the Sec-
24 retary of the Interior declines under subsection (e) to ac-
25 cept jurisdiction of lands proposed for relinquishment or,

1 if at the expiration of the withdrawal made under this Act,
2 the Secretary of the Interior determines that some of the
3 lands withdrawn under this Act are contaminated to an
4 extent which prevents opening such contaminated lands to
5 operation of the public land laws—

6 (1) the Secretary of the Navy shall take appro-
7 priate steps to warn the public of the contaminated
8 state of such lands and any risks associated with
9 entry onto such lands;

10 (2) after the expiration of the withdrawal, the
11 Secretary of the Navy shall undertake no activities
12 on such lands except in connection with decon-
13 tamination of such lands; and

14 (3) the Secretary of the Navy shall report to
15 the Secretary of the Interior and to the Congress
16 concerning the status of such lands and all actions
17 taken under paragraphs (1) and (2).

18 (g) REVOCATION AUTHORITY.—Notwithstanding any
19 other provision of law, upon deciding that it is in the pub-
20 lic interest to accept jurisdiction over lands specified in
21 a relinquishment notice, the Secretary of the Interior may
22 revoke the withdrawal and reservation made under this
23 Act as it applies to such lands. Should the decision be
24 made to revoke the withdrawal and reservation, the Sec-

1 retary of the Interior shall publish in the Federal Register
2 an appropriate order which shall—

3 (1) terminate the withdrawal and reservation;

4 (2) constitute official acceptance of full jurisdic-
5 tion over the lands by the Secretary of the Interior;
6 and

7 (3) state the date upon which the lands will be
8 opened to the operation of some or all of the public
9 land laws, including the mining laws.

10 **SEC. 9. DELEGATION.**

11 (a) DEPARTMENT OF THE NAVY.—The functions of
12 the Secretary of the Navy under this Act may be dele-
13 gated.

14 (b) DEPARTMENT OF INTERIOR.—The functions of
15 the Secretary of the Interior under this Act may be dele-
16 gated, except that an order described in section 8(g) may
17 be approved and signed only by the Secretary of the Inte-
18 rior, the Deputy Secretary of the Interior, or an Assistant
19 Secretary of the Department of the Interior.

20 **SEC. 10. HUNTING, FISHING, AND TRAPPING.**

21 All hunting, fishing, and trapping on the lands with-
22 drawn under this Act shall be conducted in accordance
23 with section 2671 of title 10, United States Code.

1 **SEC. 11. IMMUNITY OF UNITED STATES.**

2 The United States and all departments or agencies
3 of the United States shall be held harmless and shall not
4 be liable for any injury or damage to persons or property
5 suffered in the course of any authorized nonmilitary activ-
6 ity conducted on lands withdrawn under this Act.

7 **SEC. 12. TERMINATION OF PRIOR RECLAMATION WITH-**
8 **DRAWALS.**

9 Except to the extent that existing Bureau of Rec-
10 lamation withdrawals of public lands were identified for
11 continuation in Federal Register Notice Document 92-
12 4838 (57 Federal Register 7599, March 3, 1992), as
13 amended by Federal Register Correction Notices (57 Fed-
14 eral Register 19135, May 4, 1992; 57 Federal Register
15 19163, May 4, 1992; and 58 Federal Register 30181, May
16 26, 1993), all existing Bureau of Reclamation withdrawals
17 made by Secretarial Orders and Public Land Orders af-
18 fecting public lands and Indian lands located within the
19 California Desert Conservation Area established pursuant
20 to section 601 of the Federal Land Policy and Manage-
21 ment Act of 1976 (43 U.S.C. 1781) are hereby termi-
22 nated.

23 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

24 There is authorized to be appropriated such sums as
25 may be necessary to carry out this Act.



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